

CITY OF SAN JOSÉ, CALIFORNIA Department of Planning, Building and Code Enforcement 801 North First Street, Room 400 San José, California 95110-1795 <div style="text-align: center;">STAFF REPORT</div>	Hearing Date/Agenda Number P.C. 02/11/04 Item 4.f.	
	File Number PD03-040	
	Application Type Appeal of the Director's Decision to Approve a Planned Development Permit	
	Council District 2	
	Planning Area Edenvale	
	Assessor's Parcel Number(s) Portion of 706-06-015	
PROJECT DESCRIPTION <div style="text-align: right;">Completed by: Jeff Roche</div>		
Location: Southeast corner of Blossom Hill and Cottle Roads		
Gross Acreage: 18.75 Net Acreage: 18.75 Net Density: n/a		
Existing Zoning: IP (PD) Planned Development Existing Use: Industrial Park		
Proposed Zoning: No Change Proposed Use: Approximately 222,000 square-feet of commercial uses		
GENERAL PLAN <div style="text-align: right;">Completed by: JR</div>		
Land Use/Transportation Diagram Designation Industrial Park with Mixed Industrial Overlay <div style="text-align: right;"> Project Conformance: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> See Analysis and Recommendations </div>		
SURROUNDING LAND USES AND ZONING <div style="text-align: right;">Completed by: JR</div>		
North: Mobile Home Park & the Intersection of Blossom Hill Rd & Monterey Hwy A(PD) Planned Development and IP Industrial Park		
East: Railroad, Monterey Highway, Commercial A(PD) Planned Development		
South: Industrial Park, Attached Residential Uses IP Industrial Park		
West: Commercial, Community Center, Mini-storage/Warehouse R-1-1 Residence, CN Commercial Neighborhood and LI Light Industrial		
ENVIRONMENTAL STATUS <div style="text-align: right;">Completed by: JR</div>		
<input checked="" type="checkbox"/> Environmental Impact Report Certified on Appeal by City Council on December 2, 2003 <input type="checkbox"/> Negative Declaration <div style="text-align: right;"> <input type="checkbox"/> Exempt <input type="checkbox"/> Environmental Review Incomplete </div>		
FILE HISTORY <div style="text-align: right;">Completed by: JR</div>		
Annexation Title: Monterey Park No. 7 Date: December 1, 1955		
PLANNING DEPARTMENT RECOMMENDATIONS AND ACTION		
<div style="display: flex; justify-content: space-between;"> <div> <input checked="" type="checkbox"/> Approval <input type="checkbox"/> Approval with Conditions </div> <div>Date: _____</div> <div> Approved by: _____ <input checked="" type="checkbox"/> Action <input type="checkbox"/> Recommendation </div> </div>		
APPLICANT/DEVELOPER/CONTACT	OWNER	

Jim Manion
Site Development Manager
Lowe's Home Improvement Warehouse
1530 Faraday Avenue, #140
Carlsbad, CA 92008

Craig Nemson, Manager, Space Planning and Engineering
IBM
DNP/010 Rm. 456
5600 Cottle Road
San José, Ca. 95193

PUBLIC AGENCY COMMENTS RECEIVED

Completed by: Jeff Roche

Department of Public Works

See attached memoranda.

Other Departments and Agencies

See attached memoranda from the Environmental Services, Fire and Police Departments, and attached letter from the Great Oaks Water Company.

GENERAL CORRESPONDENCE

See attached Notice of Appeal.

See attached letter from Ralph Hays, et al, dated, December 9, 2003.

ANALYSIS AND RECOMMENDATIONS

BACKGROUND

This is the appeal of the Planning Director's decision to approve a Planned Development Permit (File No. PD 03-040) to allow development of approximately 222,000 square-feet of commercial uses, the demolition of the vacant IBM Research Building 025 and other structures, and the removal of up to 156 ordinance –size trees from the site.

The Planned Development Permit was heard at the January 7, 2004 Director's Hearing, and approved by the Director on January 9, 2004. Jeff Winkler, a neighbor who owns property within 1,000 feet of the project site, filed a Notice of Appeal on January 13, 2004, on behalf of the Preservation Action Council.

A response to the appeal is provided in the Analysis section below. All correspondence received on the Permit, including the Notice of Appeal, is attached to this report.

Approved Planned Development Zoning

The City Council approved a Planned Development Rezoning on the subject site on December 2, 2003. The Planned Development Zoning and Planned Development Permit allow the development of approximately 222,000 square feet of commercial uses, and the demolition of the vacant IBM Research Building 025 and other structures, and the removal of up to 156 ordinance –size trees from the site.

The project is proposed to be developed in two phases through the Planned Development Permit process. The first phase on 12.0 acres consists of a 162,000 square-foot big box retail facility to accommodate a new Lowe's Home Improvement Warehouse. The facility includes 135,000 square-feet of retail space and a 27,100 square-foot garden center. The second phase of the project is proposed to include approximately 60,000 square-feet of other retail uses, including up to 7,000 square-feet of restaurant on 6.75 acres. The property owner and project developer are working through the Lot Line Adjustment process to re-configure two existing parcels to create the subject 18.75-acre site from the larger ~178-acre IBM/Hitachi site.

Access to the project site will be from three new driveways along the project's frontage on Cottle Road. Cottle Road provides direct access to Blossom Hill Road, Monterey Highway, and US Highway 101. The primary customer access to the site will be from a central, signalized driveway in the middle of the project site that

connects to the Blossom Hill Road on-ramp. Two other secondary access points are located at the northeasterly and northwesterly corners of the subject site.

The primary retail building is proposed as a single-story concrete tilt-up structure located at the rear of the site with parking in front. Loading and service areas for the main building are located at the rear of the primary retail building, adjacent to Boulder Boulevard. A driveway paralleling Monterey Road along the northerly boundary of the site allows trucks to access the loading facilities without driving through the customer parking lot. The driveway will also provide access to and from the adjacent Hitachi property via a gate located at the southeast corner of the site. This access is expected to be open to through traffic from the adjoining industrial park development (ie., Hitachi campus) only during shift changes.

Existing Site Conditions

The site is currently occupied by three single-story research and development buildings constructed as part of the original South San José IBM Campus (Building 25 in 1957, Building 24 in 1973 and Building 30 in 1974). These buildings, including Building 25, which qualifies as a Candidate City Historic Landmark, are proposed for demolition, consistent with the recently approved Planned Development Zoning on the site. The remainder of the site consists of paved parking areas and extensive landscaping. A total of 454 trees are located on the site, 164 of which are of ordinance size (18 inches in diameter or greater) and 24 of which are native species. The majority of these trees are proposed for removal.

Neighborhood Context

The project is located within the Edenvale Redevelopment Area at the edge of the former IBM campus. Uses surrounding the project site include a mobile home park and the intersection of Blossom Hill Road and Monterey Highway to the north, the railroad and Monterey Highway to the east, industrial park and attached residential uses to the south, and mini-storage, a community center, and commercial uses to the west. The site is also adjacent to three major streets, Monterey Highway, and Cottle and Blossom Hill Roads, and a Caltrain station, located on the westerly side of Monterey Highway approximately 2,000 feet from the project site. The Santa Clara County Valley Transportation Authority currently operates several bus lines providing service to the site, Line 27 on Blossom Hill and Cottle Roads, Line 68 on Cottle Road and Monterey Highway, and Line 72 on Monterey Highway.

ENVIRONMENTAL REVIEW

The environmental impacts of this project were addressed in a Final Environmental Impact Report, entitled, "Lowe's Home Improvement Warehouse – Cottle Road", certified by the City Council on appeal on December 2, 2003.

The Final Environmental Impact Report (EIR) prepared for the proposed rezoning identified significant impacts that can be mitigated to an acceptable level in the areas of land use, geology and soils, flooding and drainage, archaeology, transportation, noise, hazardous materials, utilities and energy. The Final EIR identified that the project will result in significant unmitigated impacts to historic resources, biological resources, visual/aesthetic resources, and significant, unavoidable impacts to regional air quality. The Final EIR concluded that this project, together with reasonably foreseeable projects, would result in significant unmitigated cumulative impacts to historic resources and significant unavoidable cumulative impacts to regional air quality. In approving the proposed project, the City Council made a finding that there are no feasible project alternatives that would meet the project objectives and avoid the project's significant impacts. A more detailed analysis of the project alternatives discussed in the EIR is provided in the Analysis section below. The City Council also adopted a

finding of overriding considerations explaining the benefits of the project that warrant approval despite the significant unavoidable impacts.

GENERAL PLAN CONFORMANCE

The approved Planned Development Rezoning and associated Planned Development Permit both conform to the General Plan Land Use/Transportation Diagram designation for the site of Industrial Park with the Mixed Industrial Overlay. The General Plan specifies that areas designated with the Mixed Industrial Overlay may be appropriate for a mixture of industrial and compatible commercial uses, including big box retailers. Conditions were included in the approved Development Standards for the Planned Development Zoning and Permit to ensure that, in addition to the big box retail, the site accommodates a range of uses that are supportive of and compatible with surrounding industrial uses. The proposed big box and supportive retail uses further the Economic Development Major Strategy of the Plan and the goals of the Edenvale Redevelopment Area by providing employment opportunities for San José's residents and strengthening the municipal tax base through increased property and sales tax revenues. The project furthers the Growth Management Major Strategy in its redevelopment of an underutilized infill site within the City's Urban Service Area proximate to housing and to existing transit facilities.

The Historic, Archaeological and Cultural Resource Policies of the General Plan acknowledge that historically significant structures are irreplaceable resources, that their preservation should be a key consideration of the development review process and that the City should foster rehabilitation of buildings of historic significance. The development review process for this project has focused intensely on exploring strategies for preservation of the historically-significant Building 25 (see Analysis section below) and has concluded that implementation of the Lowe's Home Improvement Warehouse on the project site will require demolition of the building.

Based on this analysis, staff concludes that development of the proposed project and associated Planned Development Permit are consistent with the site's General Plan Land Use/Transportation Diagram designation, would substantially further the major goals and strategies of the General Plan for economic development and growth management and is consistent with the Historic Resource Policies of the General Plan.

PUBLIC OUTREACH

Notices of the public hearing before the Director of Planning and Planning Commission were distributed to the owners and tenants of all properties located within 1,000 feet (+) of the project site. In addition, notices of the public hearing were sent to all individuals and groups who had expressed a prior interest in the project.

A community meeting for the Planned Development Zoning was held on February 19, 2003, at the Southside Community Center (across the street from the subject site). Topics and issues discussed at that meeting included the following: traffic, safety, cut-through traffic, frequency of truck deliveries and truck routes, labor practices, alternative land uses, the number of trees being removed, potential impacts to the community center and associated facilities, wildlife, loss of Building 25 and alternatives to avoid or mitigate impacts to the significant historic resource, and project signage. On August 21, 2003, the property owner conducted a tour of the existing IBM Building 25 for the City of San José Historic Landmarks Commission, Planning Commission and interested members of the public. Staff has been available to discuss the project with interested members of the public.

ANALYSIS

The issues raised in the appeal are presented below, followed by a staff response.

Appeal. *This project contravenes San José's General Plan Policies on Historic and Cultural Resources. None of these (ie., Archaeological and Cultural Resources Policy No. 6, of the General Plan) were seriously considered by the City. The City should foster the rehabilitation of individual buildings and districts of historic significance and should utilize a variety of techniques and measures to serve as incentives towards achieving this end. Approaches which should be considered for implementation of this policy include, among others: Discretionary Alternate Use Policy No. 3, permitting flexibility as to the uses allowed in structures of historic or architectural merit; transfer of development rights from designated historic sites; tax relief for designated landmarks and/or districts; alternative building code provisions for the reuse of historic structures; and such financial incentives as grants, loans, and /or loan guarantees to assist rehabilitation efforts. The appellant has also indicated that "funds might be available in the Spring of 2004 from California Cultural and Historical Endowment".*

Staff Response. The fundamental decision to demolish all of the existing structures on the subject site was made by the City Council when it approved the Planned Development Zoning (File No. PDC 02-086) for the subject site on December 2, 2003. The demolition of the Research Building 25 was considered by the City Council in the context of the Planned Development (PD) Zoning process. The PD Zoning proposed construction of a new building of a size and location that would require the removal of IBM Building 25. An Environmental Impact Report (EIR) was prepared for the rezoning which identified IBM Building 25 and its associated grounds as a very significant historic resource and concluded that demolition of the building would constitute a significant environmental impact. The EIR provided an extensive analysis of alternatives to the project, including adaptive reuse, redesign of the project to avoid the demolition and an alternative project site. The EIR analysis concluded that all of the alternatives which avoided the significant historic impact were infeasible. After considering the Environmental Impact Report and significant public testimony regarding the advisability of demolishing the building, the City Council approved the rezoning, including the demolition of Building 25, and adopted a statement of overriding considerations in its CEQA Resolution identifying the benefits of the project that outweigh the significant impact resulting from the demolition.

The City Council concluded that there are no feasible alternatives that would avoid the demolition of Building 25 and achieve the objectives of Lowe's and the City for redevelopment of the underutilized project site with a big box warehouse use and other commercial uses that strengthen the tax base, create new jobs proximate to housing and conform to the City's level of service policies and the neighborhood preservation objectives of the General Plan.

Conclusion

Based on the above analysis, the Director of Planning concluded that the Planned Development Permit was consistent with the General Plan and with the Planned Development Zoning approved by the City Council.

RECOMMENDATIONS

Planning staff recommends that the Planning Commission uphold the Director's decision to approve the subject Planned Development Permit and include the following facts and findings in its Resolution.

FACTS

The Planning Commission finds that the following are the relevant facts regarding this proposed project:

1. The project site has a designation of *Industrial Park with Mixed Industrial Overlay* on the adopted San José 2020 General Plan Land Use/Transportation Diagram.
2. The project site is located in the IP (PD) Planned Development Zoning District. The City Council approved a Planned Development Rezoning on the subject site in December 2003. The Planned Development Zoning allows the development of approximately 222,000 square feet of commercial uses, and the demolition of the vacant Research Building 025 and other structures, and the removal of up to 156 ordinance –size trees from the site.
3. A Planned Development Permit was filed on July 1, 2003. The Planned Development Permit allows the development of approximately 222,000 square feet of commercial uses, and the demolition of the vacant Research Building 025 and other structures, and the removal of up to 156 ordinance - size trees from the site, consistent with the Planned Development Zoning on the subject site.
4. The Planned Development Permit was heard at the January 7, 2004 Director’s Hearing, and approved by the Director on January 9, 2004. Jeff Winkler, a neighbor who owns property within 1,000 feet of the project, filed an Appeal on January 13, 2004, on behalf of the Preservation Action Council. The appellant has claimed that this project (ie, Planned Development Permit), “contravenes San José’s General Plan Policies on Historic and Cultural Resources”, and that “none of the Historic, Archaeological and Cultural Resource Policies were seriously considered by the City.
5. The subject site is approximately 18.75 acres in size.
6. The first phase of the project proposes the construction of up to 161,673 square-foot retail building (including a garden center) and associated improvements, the demolition of IBM/Hitachi Research Building 025, and the removal of up to 156 ordinance size trees. The proposed project is to be built in phases. The second phase of the project includes the remainder of the total building square footage and associated improvements.
7. The scale, form and character of the proposed project are generally compatible with the surrounding neighborhood.
8. The proposed project conforms to the development standards of the IP (PD) Planned Development Zoning District.
9. The proposed project will meet all of the development regulations set forth in the Zoning Code.
10. In accordance with Section 20.100.010 of the San José Municipal Code, a Planned Development Permit is required.
11. Under the provisions of Section 20.80.410 of the San José Municipal Code, except as specifically exempted by Section 20.80.450, no demolition permit or removal permit shall be issued unless and until a Development Permit which specifically approves such demolition or removal has been issued and has become effective pursuant to the provisions of Chapter 20.100.900 through 20.100.980.

This Permit includes the demolition of three industrial park/research and development buildings and associated improvements in the IP (PD) Planned Development Zoning District. One of these buildings, IBM Building 25, is

significant historic resource.

The demolition of the Research Building 25 was considered by the City Council in the context of the Planned Development (PD) Zoning process. The PD Zoning proposed construction of a new building of a size and location that would require the removal of IBM Building 25. An Environmental Impact Report (EIR) was prepared for the rezoning which identified IBM Building 25 and its associated grounds as a very significant historic resource and concluded that demolition of the building would constitute a significant environmental impact. The EIR provided an extensive analysis of alternatives to the project, including adaptive reuse, redesign of the project to avoid the demolition and an alternative project site. The EIR analysis concluded that all of the alternatives which avoided the significant historic impact were infeasible. After considering the Environmental Impact Report and significant public testimony regarding the advisability of demolishing the building, the City Council approved the rezoning, including the demolition of Building 25, and adopted a statement of overriding considerations in its CEQA Resolution identifying the benefits of the project that outweigh the significant impact resulting from the demolition.

In this context, the Director of Planning considered the following criteria in evaluating the proposed demolition.

- a. The failure to approve the permit would result in the creation of continued existence of a nuisance, blight or dangerous condition.
- b. The failure to approve the permit would jeopardize public health, safety or welfare.
- c. The approval of the permit would not negatively impact the supply of existing housing stock in the City of San José.
- d. Both inventoried and non-inventoried buildings, sites and districts of historical significance should not be negatively impacted.
- e. Rehabilitation or reuse of the existing building would not be feasible.
- f. The approval of the demolition of the building should facilitate a project that is compatible with the surrounding neighborhood.
- g. The demolition of the building without an approved replacement building should not have an adverse impact on the surrounding neighborhood.

Further, the Director of Planning concludes and finds, based on the analysis of the above facts, that:

- a. The proposed project conforms in all respects to the provisions of Title 20 of the San José Municipal Code.
- b. The proposed project is in conformance with the California Environmental Quality Act.
- c. The benefits of permitting the demolition, removal or relocation of the subject building outweigh the impacts of the demolition, removal or relocation.

Finally, based upon the above-stated findings and subject to the conditions set forth below, the Director of Planning approves, pursuant to Section 20.80.440 (B) of the San José Municipal Code, the demolition of the subject structure.

FINDINGS

1. The Planned Development Permit, as issued, furthers the policies of the General Plan in that:
 - a. The proposed rezoning conforms to the General Plan Land Use/Transportation Diagram designation for the site of Industrial Park with the Mixed Industrial Overlay. The General Plan specifies that areas designated with the Mixed Industrial Overlay may be appropriate for a mixture of industrial and compatible commercial uses, including big box retailers. Conditions are included in the Development Standards and Permit conditions to ensure that, in addition to the big box retail, the site accommodates a range of uses that are supportive of and compatible with surrounding industrial uses. The proposed big box and supportive retail uses further the Economic Development Major Strategy of the Plan and the goals of the Edenvale Redevelopment Area by providing employment opportunities for San José's residents and strengthening the municipal tax base through increased property and sales tax revenues. The project furthers the Growth Management Major Strategy in its redevelopment of an underutilized infill site within the City's Urban Service Area proximate to housing and to existing transit facilities.
 - b. The Historic, Archaeological and Cultural Resource Policies of the General Plan acknowledge that historically significant structures are irreplaceable resources, that their preservation should be a key consideration of the development review process and that the City should foster rehabilitation of buildings of historic significance. The development review process for this project has focused intensely on exploring strategies for preservation of the historically-significant Building 25 and has concluded that implementation of the Lowe's Home Improvement Warehouse on the project site will require demolition of the building.
 - c. Based on this analysis, the Planning Commission concludes that the proposed project is consistent with the site's General Plan Land Use/Transportation Diagram designation, would substantially further the major goals and strategies of the General Plan for economic development and growth management and is consistent with the Historic Resource Policies of the General Plan.
2. The Planned Development Permit, as issued, conforms in all respects to the Planned Development zoning of the property in that:
 - a. The building location, setbacks, and parking spaces conform to the General Development Plan.
3. The interrelationship between the orientation, location and elevations of the proposed building(s) and structure(s) and other uses on-site are mutually compatible and aesthetically harmonious in that:
 - a. The architectural elements of the proposed and/or existing structure(s) are integrated into a harmonious whole.
4. The environmental impacts of the project will not have an unacceptable negative effect on adjacent property or properties in that:
 - a. The environmental impacts of this project were addressed by a Final EIR entitled, "Lowe's Home Improvement Warehouse – Cottle Road, South San José," and certified on December 2, 2003, on appeal, by the City of San José City Council.

- b. The proposed project will not individually or cumulatively have an adverse effect on wildlife resources, as defined in Section 711.2 of the California Department of Fish and Game Code.
5. Traffic access, pedestrian access and parking are adequate in that:
- a. Adequate driveways, sidewalks and parking areas are proposed on site to serve the proposed structure and associated uses.

APPROVED SUBJECT TO THE FOLLOWING CONDITIONS:

1. **Sewage Treatment Demand.** Chapter 15.12 of Title 15 of the San José Municipal Code requires that all land development approvals and applications for such approvals in the City of San José shall provide notice to the applicant for, or recipient of, such approval that no vested right to a Building Permit shall accrue as the result of the granting of such approval when and if the City Manager makes a determination that the cumulative sewage treatment demand of the San José-Santa Clara Water Pollution Control Plant represented by approved land uses in the area served by said Plant will cause the total sewage treatment demand to meet or exceed the capacity of San José-Santa Clara Water Pollution Control Plant to treat such sewage adequately and within the discharge standards imposed on the City by the State of California Regional Water Quality Control Board for the San Francisco Bay Region. Substantive conditions designed to decrease sanitary sewage associated with any land use approval may be imposed by the approval authority.
2. **Building Permit.** Obtainment of a Building Permit is evidence of acceptance of all conditions specified in this document and the applicant's intent to fully comply with said conditions.
3. **Permit Expiration.** This Planned Development Permit shall automatically expire 30 months from and after the date of issuance hereof by said Director, if within such 30 month period, the proposed use of this site of the construction of buildings has not commenced, pursuant to and in accordance with the provision of this Planned Development Permit. The date of issuance is the date this Permit is approved by the Planning Commission. However, the Director of Planning may approve a permit Adjustment to extend the validity of this Permit for a period of up to two years. The Permit Adjustment must be approved prior to the expiration of this Permit.
4. **Permit Recordation.** This Planned Development permit cannot be recorded until after the effective date of Ordinance No 27032, rezoning the subject site.
5. **Conformance with Plans.** Construction and development shall conform to approved Site Development plans entitled, "Planned Development Permit – Lowe's South San José" dated, July 1, 2003, last revised with Condition No. 6 of this Planned Development Permit, on file with the Department of Planning, Building and Code Enforcement and to the San José Building Code (San José Municipal Code, Title 17, Chapter 17.04).
6. **Plan Revisions.** Within 60 days of the issuance of this Permit and prior to recordation, the project developer shall revise the project plans to include the items(s) listed below to the satisfaction of the Director of Planning. Failure to provide said revisions within 60 days shall cause this Permit to become null and void.
 - a. Land Use Plan and Notes, as approved by City Council.
 - b. Revised circulation at the southeasterly corner of the subject site, between the project and the adjoining IBM/Hitachi Facility, to show larger turning radii (50 feet outside and 30 feet inside).

- c. Complete details of all project signage that show conformance to the City of San José, Sign Ordinance. Maximum of one detached/monument sign.
 - d. Gates and fencing across the proposed loading dock at the southeasterly corner of the subject site/building or other security measures to the satisfaction of the Director of Planning.
 - e. Complete details of all exterior light fixtures that show conformance to *City Council Policy 4-3 – Outdoor Lighting on Private Developments*.
 - f. Turf block or similar solution, in the bottom portions of the vegetative swales, to minimize ruts and maintenance problems.
 - g. Revise Tree Preservation and Removal Plan, to clearly show the “Numbers of the Trees”. Bolder type may be appropriate.
 - h. Clearly show and note that the “historical exhibit” is subject to separate review, to the satisfaction of the Director of Planning, on all plan sheets. This exhibit shall not be placed within the dripline of the Oak tree designated to remain.
 - i. Overland release paths shall be paved (concrete and cobbles, concrete, or asphaltic concrete).
 - j. Fencing to minimize security and safety issues to enclose the “storm detention basin areas” located at the westerly end of the site. Note that these facilities are temporary, until the construction of Phase 2.
 - k. Typical Architectural Details Sheet.
 - l. Show building height to the highest point on all Elevations.
 - m. No irrigation beneath the driplines of Oak tree(s) designated to remain.
 - n. Other than light fixtures along the driveway that runs through Phase 2, delete all light fixtures that are shown in Phase 2.
7. **Revocation.** This Planned Development Permit is subject to revocation for violation of any of its provisions or conditions.
8. **Conformance with Municipal Code.** No part of this approval shall be construed to permit a violation of any part of the San José Municipal Code.
9. **Acceptance.** The "Acceptance of Permit and Conditions" form shall be *signed, notarized, and returned* to the Department of Planning, Building and Code Enforcement within **60 days** from the date of issuance of permit. *Failure to do so will result in this permit automatically expiring regardless of any other expiration date contained in this permit.*
10. **Construction Hours.** Construction shall be limited to the hours of 7:00 a.m. to 7:00 p.m. Monday through Friday for any on-site or off-site work within 500 feet of any residential unit. The project developer shall implement the following measures to minimize the potential effects of construction noise on adjacent uses:

- a. Equip all internal combustion engine-driven equipment with original factory intake and exhaust mufflers, which are kept in good condition.
 - b. Prohibit, and post signs prohibiting, unnecessary idling of internal combustion engines.
 - c. Locate all stationary noise-generating construction equipment such as air compressors and portable power generators as far as practicable from noise sensitive land uses.
 - d. Utilize “quiet” air compressors and other stationary equipment where technology exists.
 - e. The project will be required to designate a “noise disturbance coordinator” who would be responsible for responding to any local complaints about construction noise. The disturbance coordinator shall determine the cause of the noise complaints (e.g., starting too early, bad muffler, etc.) and require the implementation of reasonable measures to correct the problem. Conspicuously post a name and telephone number for the disturbance coordinator at the construction site.
11. **Easement.** Along the Easterly Side of the Site. Prior to issuance of a Public Works Clearance, the project developer shall record a Covenant of Easement (COE) for pedestrian and vehicular access, and utilities, along the easterly side of the site, to the satisfaction of the Directors of Planning and Public Works.
12. **Project Phasing.** This project may be built in Phases, as shown on the approved Planned Development Permit plans. Phase 2 of the overall project shall be subject to separate review through a Planned Development Permit, including the payment of all applicable fees, to the satisfaction of the Director of Planning. Alighted, project directory shall be placed at all project entries as part of Phase 2 of the project, to the satisfaction of the Director of Planning and Fire Chief.
13. **Discretionary Review.** The Director of Planning maintains the right of discretionary review of requests to alter or amend structures, conditions or restrictions of this Site Development Permit incorporated by reference in this Permit in accordance with Section 20.44.200 of the San José Municipal Code.
14. **Tree Protection and Management.** The project developer shall comply with and implement all mitigation measures identified in the report, entitled “Lowe’s of South San José Tree Preservation Plan – San José, California”, dated, December 15, 2003, prepared by MacNair & Associates, to the satisfaction of the Director of Planning.
15. **Historic Preservation Tasks to be Completed Prior to Issuance of a Demolition Permit.** Prior to issuance of a demolition permit for Building 025 the following conditions will be met:
- a. Public Exhibit: The project developer shall preserve an exterior wall from Building 025 that represents the character of the building and shall incorporate this wall into an on-site interpretive exhibit on the history of the building. This exhibit shall include material from the historic report, original drawings, copies of the HABS level photography, and actual building material (including some of the mosaic tiles or other elements of the building), and shall be located and designed so that it is accessible to the public and of a durable design. Design and implementation of the exhibit shall include the following to the satisfaction of the Director of Planning:
 - 1) The project developer shall in consultation with the City's Historic Preservation Officer:

- a) Prepare and distribute a proposal to qualified consultants to design the interpretive exhibit and select qualified consultant(s) to the satisfaction of the Director of Planning. This team shall consist of at least a preservation architect or materials conservator, an architectural historian or historian, and an exhibit designer,
- 2) Submit a plan for the interpretative exhibit that includes:
 - a) Identification by the architect/conservator of the specific wall that is most characteristic of Building 025, any materials to be salvaged from the building for the exhibit and any protective measures necessary to ensure that these elements/materials are preserved; and
 - b) Outline of the interpretative text and materials to be incorporated into the exhibit
 - c) Conceptual design for the exhibit including its location, orientation and the organization of building elements, text, photographs, and drawings
- 3) Coordinate with the City's Historic Preservation Officer to develop the design and location of the interpretative exhibit and obtain approval of a Permit Adjustment for the final design. The consultant team shall consider incorporating the Gurdon Woods sculpture, from Building 025, into the design of the interpretative exhibit.
- 4) Prior to occupancy of any building on the site, the applicant shall complete construction of the exhibit in conformance with the approved plans, to the satisfaction of the Director of Planning.
- 5) The project developer shall provide on-going maintenance of the facility (i.e., exhibit), as necessary, to keep it in good condition and publicly accessible.
- 6) The following permit conditions shall be conducted by qualified consultants as described in the Professional Qualification Standards of the *Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation*.
- b. Preservation of Artwork:
 - 1) Sculpture: The project applicant will retain a qualified conservator to rehabilitate and relocate the Gurdon Woods sculpture "Research" to an appropriate comparable setting either as a part of the on-site public exhibit or, for example, to Building 010 or vicinity, in coordination with Hitachi for relocation within their campus. The sculpture shall be installed in a new reflecting pool or on a polished stone slab. Installation of the sculpture will include the existing and an additional new plaque. Prior to relocation, document this feature photographically to HABS (the *Historic American Buildings Survey*) standards.
 - 2) Ceramic Mosaic Veneer: Prior to any removal, document this feature photographically to HABS standards. The veneer shall first be made available to the consultant team responsible for the on-site public exhibit. Following that, contact History San José to determine if they have interest in this feature. If there is no interest, make the feature available for salvage.
- c. Documentation:

- 1) HABS Photography: This will consist of selected large format, black-and-white views of the existing building, to the Historical American Building Survey standards. Views will include at a minimum:
 - a) 6-8 views of exterior (including the courtyards and concrete block divider screens)
 - b) 3 views of setting
 - c) 6-8 views of interior
 - d) 3-4 selected details (including the sculpture, ceramic mosaic veneer mural, etc.)
- 2) Drawings: Copies of selected John S. Bolles drawings will be reproduced from microfiche on archival media. A preliminary selection of 10 drawings has been made. A search of materials at U.C. Berkeley Environmental Design Archives will be conducted as related to Building 025 project drawings and documents and Douglas Baylis, Landscape Architect. Copies of the drawings will be incorporated into the documentation package.
- 3) Historic Photographs: There are a number of high quality historic photographs in IBM's possession that were taken before, during and after construction that provide an important part of Building 025's history. With the cooperation of IBM, the applicant will make 8x10 black-and-white prints, on archival paper, of nine selected photographs of historic and contemporary views (as shown in Appendix A of the Hardy report in Appendix E of the EIR). Included will be at least one aerial view of the site prior to construction or before major development in the area.

c. Salvage:

- 1) Building 025 will be surveyed by a qualified historical architect to identify any significant historic features or materials for reuse or salvage. Prior to demolition, the project applicant shall consult with History San José, the Preservation Action Council of San José, and the Historic Landmarks Commission regarding salvage of materials from Building 025 for public information or reuse in other locations. The project applicant shall schedule a tour of the building for these organizations to facilitate identification of elements for salvage.
- 2) Historic features or materials selected by the historical architect and organizations noted above, that will not be used in the on-site historic interpretive exhibit to be constructed by Lowes, will be removed from the building and stored on site by Lowes' demolition contractor. The materials will be stored in an area secure from weather and vandalism until representatives of each historic organization have removed selected materials. Lowes' contractor will notify the City of San José Historic Preservation Officer and the participating historic preservation organizations when the materials are available for pickup. The materials will be stored on site for up to four (4) weeks following issuance of the notice of availability. At the end of that period, the parties will be notified that any such materials not picked up by the appropriate historic preservation entity within one (1) additional week will become the property of the demolition contractor for salvage and/or disposal. After any significant historic features or materials have been identified and their removal completed, demolition of the building will comply with the City of San José's Construction & Demolition Diversion Deposit Program and Ordinance No. 26219.
- 3) Upon conclusion of the above items, and prior to issuance of the demolition permit, the applicant shall submit a report, to the satisfaction of the Director of Planning, stating how and that each of the

above conditions has been met.

16. Historic Preservation Tasks to be Completed Prior to Issuance of a Building Permit. Prior to issuance of a Building Permit the following conditions will be met:

- a. *Historical Record of IBM's Technological Innovations at Building 025 and the Cottle Road Campus: The project sponsor, in cooperation with the IBM Corporation, will provide available information on Building 025 and the use of the property, and to the extent that they exist, documents relating to social, civic, and economic conditions that were present and affected changes at Building 025 and its context. Any copies of the extant drawings and photographs pertaining to Building 025, which are made available by IBM, will be incorporated into the documentation package for distribution to area archives as noted below.*
- b. Three copies of the HABS level photography, historic photographs, drawings, written reports and other historical records, will be packaged as one document (organized into tabbed binders) recording the history and significance of the site and provided to the Historic Preservation Officer in the Department of Planning, Building and Code Enforcement for distribution to History San José, the California Room of the Martin Luther King, Jr. Library, and the Northwest Information Center at Sonoma State University. In addition, the project applicant will present the documents compiled from the above recordation tasks to the U.C. Berkeley Environmental Design Archives.
- c. Upon conclusion of the above items, and prior to issuance of the building permit, the applicant shall submit a report, to the satisfaction of the Director of Planning, stating how and that each of the above conditions has been met.

17. Public Works Clearance. A Development Clearance shall be obtained from the Public Works Department, Room 308, (408) 277-5161, and is subject to the following requirements (3-00640) to the satisfaction of the Director of Public Works:

- a. *Sewage Fees:* In accordance with City Ordinance all storm sewer area fees, sanitary sewer connection fees, and sewage treatment plant connection fees, less previous credits, are due and payable.
- b. *Street Improvements.* The project developer shall install new street improvements to the satisfaction of the Director of Public Works.
- c. *Reclaimed Water Irrigation Systems.* Pursuant to San José Municipal Code, Section 15.10.480, irrigation systems for all landscaped areas in excess of 10,000 square feet, unless specifically exempted by the Director of Planning, shall be designed and installed to allow the current and future use of reclaimed water to the satisfaction of the Director of Public Works.
- d. *Storm Sewer.* Submit a grading and drainage plan. Indicate the overland release path in arrows. The release path must be paved. On-site ponding must be paved. Finished floor elevations must be one foot higher than the overland release elevation.
- e. *Grading/Geology.* A grading permit is required prior to the issuance of a Public Works Clearance. The construction operation shall control the discharge of pollutants (sediments) to the storm drain system from the site. An erosion control plan will be required with the grading application. The Project site is within the State of California Seismic Hazard Zone. A soil investigation report addressing the potential hazard of liquefaction must be submitted to, reviewed and approved by the City Geologist prior to

issuance of a grading permit or Public Works Clearance. The investigation should be consistent with the guidelines published by the State of California (CDMG Special Publication 117) and the Southern California Earthquake Center ("SCEC" report). A recommended depth of 50 feet should be explored and evaluated in the investigation.

- f. *Electrical*. Installation and/or relocation of electroliner(s) on project frontage may be required.
- g. *Street Trees*. Install street trees within the public right-of-way along the entire street frontage per City standards. The locations of the street trees will be determined at the street improvement stage. Street trees shown on this permit are conceptual only. Contact the City Arborist at (408) 277-2756 for the designated street tree.
- h. *Street Improvements*. Remove and replace broken or uplifted curb, gutter, and sidewalk along project frontage.
- i. *Inlet Filters*. The project developer shall install inlet filters in all onsite storm drainage inlets not served by a vegetative swale. These filters shall be installed, maintained and replaced by a qualified consultant hired by the property owner. Copies of all inspection and maintenance records shall be provided to the City upon request. The project developer shall implement a maintenance program for these inlet filters that includes but is not limited to the following measures:
 - 1) Installation. The inlet filters shall be installed by a qualified individual in conformance with the manufacturer's specifications. Installation records shall be maintained by the project developer and subsequent property owner.
 - 2) Maintenance Record. The property owner must keep a record available for inspection on the project site of all inspections and maintenance of the inlet filters.
 - 3) Regular Sweeping. Paved surfaces subject to runoff shall be swept regularly during dry periods to remove dirt, silt and other loose debris.
 - 4) Regular Inspections. The inlet filters shall be inspected monthly between September and April, and the absorbent material shall be replaced by a qualified individual as necessary to ensure the filters are functioning properly.
 - 5) Replacement of Absorbent Material. The absorbent material shall be replaced by a qualified individual in conformance with the manufacturer's specifications. Care should be taken to avoid spilling the contaminated material into the drainage system.
 - 6) Disposal of Used Absorbent Material. Used absorbent material shall be disposed of in conformance with all applicable local, state and federal regulations.
 - 7) Replenishment of Absorbent Materials Supply. The property owner shall keep a sufficient amount of absorbent material on hand to replace the amount of installed absorbent material plus a reserve to handle emergencies.
- j. *Transportation Improvements*. The project developer shall contribute towards transportation

improvements to reduce potential traffic and transportation impacts, consistent with fair share contributions made by other Edenvale industrial and commercial occupants, to the satisfaction of the Director of Public Works.

- 1) The project developer shall do the following: modify the traffic signal at the intersection of Cottle Road and Concord Drive to accommodate the project traffic and realign the access driveway onsite and lengthen the southbound left-turn pocket to accommodate a minimum 280 feet of vehicle storage space as part of the Planned Development Permit and Public Works Clearance stages, to the satisfaction of the Director of Public Works.
- 2) The project developer shall modify the driveway at Cottle Road/Endicott Boulevard to eliminate inbound and outbound through movements to discourage cut-through traffic in the Hayes Avenue neighborhood.

k. *Archaeology.* The project developer shall implement the following measures to mitigate potentially significant impacts to any archaeological resources that may be buried on the site:

- 1) In the event that either prehistoric or historic archaeological materials are exposed or discovered during site preparation or subsurface construction, operations within a 25-foot radius of the find shall be halted, until the find can be inspected by a qualified professional archaeologist. If the archaeologist concludes that the find may be of significance, a plan for evaluating the significance of the resource and recommending appropriate mitigation under the current CEQA Guidelines shall be prepared by the archaeologist and submitted to the Director Planning, Building and Code Enforcement.
- 2) Mitigation for impacts to historic and prehistoric materials may include monitoring combined with data retrieval, or may require a program of hand excavation to record and/or remove materials for further analysis. The appropriate program for mitigating the impacts to any buried resources found on the site will be implemented, and the final report transmitted to the Director of Planning, Building and Code Enforcement.
- 3) If human remains are discovered, the Santa Clara County Coroner shall be notified. The Coroner would determine whether or not the remains were Native American. If the Coroner determines that the remains are not subject to his authority, he will notify the Native American Heritage Commission, who would identify a most likely descendant to make recommendations to the land owner for dealing with the human remains and any associated grave goods, as provided in Public Resources Code Section 5097.98.

18. **Building Clearance for Issuing Permits.** Prior to the issuance of a Building Permit, the following requirements must be met to the satisfaction of the Chief Building Official:

- a. *Construction Plans.* This permit file number, PD 03-040, shall be printed on all construction plans submitted to the Building Division.
- b. *American With Disabilities Act.* The applicant shall provide appropriate access as required by the American With Disabilities Act (ADA).
- c. *Construction Conformance.* A project construction conformance review by the Planning Division is required. Planning Division review for project conformance will begin with the initial plan check submittal to the Building Division. Prior to final inspection approval by the Building Department, Developer shall

obtain a written confirmation from the Planning Division that the project, as constructed, conforms to all applicable requirements of the subject Permit, including the plan sets. To prevent delays in the issuance of Building Permits, please notify Planning Division staff at least one week prior to the final Building Division inspection date.

19. **Landscaping.** Planting and irrigation are to be provided, as indicated, on the final Approved Plan Set. Landscaped areas shall be maintained and watered and all dead plant material is to be removed and replaced by the property owner. Irrigation is to be installed in accordance with Part 4 of Chapter 15.10 of Title 15 of the San José Municipal Code, Water Efficient Landscape Standards for New and Rehabilitated Landscaping and the City of San José Landscape and Irrigation Guidelines.
20. **Certification.** Pursuant to San José Municipal Code, Section 15.10.486, certificates of substantial completion for landscape and irrigation installation shall be completed by licensed or certified professionals and provided to the Department of Planning, Building and Code Enforcement prior to approval of the final inspection of the project.
21. **Noise.** The project shall conform to all requirements identified in the Noise Report entitled, "*Lowe's South San José – Environmental Noise Assessment*", dated, August 1, 2003, prepared by Illingworth & Rodkin, Inc., to the satisfaction of the Director of Planning.
22. **Recycling.** Scrap construction material shall be recycled. Integrated Waste Management staff at 277-5533 can provide assistance on how to recycle construction and demolition debris from the project, including information on available haulers and processors.
23. **Walls/Fence Height/Location.** Walls and fencing for the project shall conform to the design standards shown in the approved Planned Development Permit plans.
24. **Lighting.** On-site lighting shall use low-pressure sodium fixtures and be designed, controlled and maintained so that no light source is visible from outside of the property. Electroliers shall not exceed 18 feet above grade. The project developer shall maintain an average light intensity level between ½ and 1 ½ foot-candles in the parking lot area and the service area at the rear of the building. The project developer shall install full cut-off, low-pressure sodium light fixtures above all exterior doors.
25. **Refuse.** All trash areas shall be effectively screened from view and covered and maintained in an orderly state to prevent water from entering into the garbage container. No outdoor storage is allowed/permitted unless designated on the approved plan set. Trash areas shall be maintained in a manner to discourage illegal dumping.
26. **Roof Equipment.** All roof equipment shall be screened from view.
27. **Utilities.** All on-site telephone, electrical and other overhead service facilities shall be placed underground.
28. **Outside Storage.** No outside storage is permitted except in areas designated on the approved Planned Development Permit plan set.
29. **Sign Approval.** Signs shown on the approved Planned Development Permit plans are approved at this time. All other proposed signs shall be subject to separate review by the Director of Planning. Signage shall conform to the City of San José Municipal Code (Title 23).
30. **Colors and Materials.** All building colors and materials are to be those specified on the approved plan set.

31. **Fire Hydrants.** Public (off-site) and private (on-site) fire hydrants shall be provided as approved and at the exact location specified by Protection Engineering Section of the Fire Department to the satisfaction of the Fire Chief. All existing hydrants shall be at least 10 feet from all driveways.
32. **Fire Flow.** Required fire flow for the site is 4,500 g.p.m. or as approved in writing by the Fire Chief.
33. **Fire Extinguishing System.** Buildings shall be provided with automatic fire extinguishing systems. Systems serving more than 100 sprinklers shall be supervised by a remote alarm system, to the satisfaction of the City of San José, Fire Chief.
34. **Access Roads.** Approved access road(s) and hydrant(s) shall be provided once wood framing is available at the site, or provide an alternate means of water suppression, to the satisfaction of the City of San José, Fire Chief. All Fire Department access roads, water mains, and fire hydrants shall be installed and operational during construction, in accordance with Article 87 of the Fire Code and all other applicable standards, to the satisfaction of the City of San José, Fire Chief.
35. **Fire Lanes.** Fire lanes, suitably designated "FIRE LANE - NO PARKING," shall be provided to the satisfaction of the Fire Chief.
36. **Lock Boxes.** The project developer shall provide lock boxes, to the satisfaction of the City of San José, Police Chief and Fire Chief, prior to the issuance of Building Permits.
37. **Emergency Notification Form.** The project developer shall file "*Emergency Notification Form 200-14*" with the City of San José, Police Department.
38. **No Trespassing/Loitering Signs.** The project developer shall install "*No Trespassing/Loitering*" signs on the site, in conformance with the City of San José, Municipal Code (SJMC 10.20.140 (D)). All entrances to the parking areas shall be posted with appropriate signs per CVC 22658(a), to the satisfaction of the City of San José, Police Chief.
39. **Security Hardware.** The project developer shall install adequate security hardware to the satisfaction of the Chief of Police and Chief Building Official.
40. **Visible Street Numbers.** Street numbers shall be visible day and night from the nearest street, either by means of illumination or by use of reflective materials.
41. **Industrial Waste.** If industrial waste, as defined by Section 15.12 of the San José Municipal Code, is to be discharged into the sanitary sewer system, a clearance shall be obtained from the Water Pollution Control Plant, Industrial Waste Section.
42. **Hazardous Materials.** Any hazardous materials regulated by Chapter 17.68 of the San José Municipal Code on the site must be used and stored in full compliance with the City's Hazardous Material Ordinance and the Hazardous Materials Management Plan for the site approved by the San José Fire Prevention Bureau.
43. **Tree Removals.** No tree larger than 56 inches in circumference, at a height of 24 inches above the natural grade slope, shall be removed without a Planned Development Permit, to the satisfaction of the Director of Planning.
44. **Street Cleaning and Dust Control.** During construction, the developer shall damp sweep the public and private

streets within and adjoining the project site each working day sufficient to remove all visible debris and soil. On-site areas visible to the public from the public right-of-way shall be cleaned of debris, rubbish, and trash at least once a week. While the project is under construction, the developer shall implement effective dust control measures to prevent dust and other airborne matter from leaving the site.

45. **Anti-Graffiti.** The applicant shall remove all graffiti from buildings and wall surfaces within 48 hours of defacement.
46. **National Pollutant Discharge Elimination System Permit.** Prior to commencement of any construction activities, the project developer shall file a Notice of Intent (NOI) to comply with the State Water Resources Control Board General Permit for Stormwater Discharge Associated with Construction Activity in compliance with the National Pollutant Discharge Elimination System (NPDES).
47. **Biologic Resources.** The project developer shall implement the following measures to mitigate potentially significant impacts to biological resources:

Potential Impacts to Special-Status Bats

The project developer shall implement the following measures to avoid harm to special-status bats, which could be roosting on the site at the time of building demolition and tree removal:

To prevent entry by bats into the existing buildings, all doors, windows, and exterior surfaces shall be maintained to remain intact and absent of openings.

To avoid take of bats which could potentially be roosting under the wood shakes on the mansard roofs of Buildings 024 and 030, the mansard roofs shall be dismantled first, starting with the roof sections found to be in the best condition, and moving toward those sections with decayed and missing shakes where bats are most likely to be found.

To avoid potential take of bats during tree removal, the smaller trees surrounding the large trees shall be removed before the adjacent large trees where bats may be roosting. The smaller trees shall be removed no less than one-day prior and no more than two days prior to removal of the larger adjacent trees. This will allow one nightly emergence period for the bats to abandon their roosts prior to removal of the larger trees.

Potential Impacts to Nesting Raptors

The project developer shall implement the following measures to ensure that raptors (hawks and owls) are not disturbed during the breeding season:

A qualified ornithologist shall conduct a pre-construction survey for nesting raptors (including both tree and ground nesting raptors) on-site no more than 30 days prior to the onset of ground disturbance. These surveys shall be based on accepted methods for the various target species.

If nesting raptors are identified during the nesting season (1 February through 31 August) on or adjacent to the site, then the ornithologist will, in consultation with the California Department of Fish and Game, determine a ground disturbance-free setback zone around the nest (usually a minimum of 250 feet). The actual distance of the ground disturbance-free zone will depend on the species, location of the nest, and local topography. This setback shall be temporarily fenced, and construction equipment and workers shall not enter the enclosed setback area until the conclusion of the breeding season.

Impacts to Existing Trees

Tree Removal Impacts

Ordinance-sized trees removed from the site shall be replaced by 36-inch box specimens at a ratio of four replacement trees for each ordinance-sized tree removed, in accordance with the San José Tree Removal Ordinance and replacement guidelines. Non-ordinance size trees shall be replaced at a 1 to 1 ratio with 36-inch box specimen trees.

Prior to issuance of a Demolition Permit, the applicant shall submit a tree mitigation program identifying on-site and off-site tree mitigation in conformance with the above-noted replacement ratios. The tree mitigation plan shall identify tree species, size and planting locations and shall provide an implementation schedule and maintenance program.

The tree mitigation outlined above can take place by replacing trees on-site or a donation to Our City Forest, for trees to be placed in the surrounding areas, to the satisfaction of the Director of Planning. Replacement trees shall be 36-inch box trees or equal value.

Impacts to Trees to be Retained

In addition to the (89) trees already being preserved on-site, the project developer shall preserve another (20) additional trees on the perimeter of the site, as shown on the plan, entitled, Tree Preservation and Removal Plan, on file in the Department of City Planning.

Prior to issuance of a Demolition Permit the project developer shall submit to the satisfaction of the Director of Planning a tree preservation plan prepared by a qualified arborist identifying measures necessary to ensure the survival of the trees proposed for preservation during and following the construction phase of the project. This plan shall include a Tree Fencing Plan detailing the location of all protective fencing enclosing the Tree Protection Zone for trees in which no soil disturbance is permitted. No underground services including utilities, sub-drains, water or sewer shall be placed in the Tree Protection Zone. Irrigation systems must be designed so that no trenching will occur within the Tree Protection Zone. Any plans affecting trees shall be reviewed by the consulting arborist with regard to tree impacts; these include, but are not limited to, improvement plans, utility and drainage plans, grading plans, landscape and irrigation plans, and demolition plans.

All tree pruning shall be completed by a certified arborist or tree worker and adhere to the 'Tree Pruning Guidelines' of the International Society of Arboriculture.

Pre-construction Treatments

Fence all trees to be retained to completely enclose the Tree Protection Zone prior to demolition, grubbing or grading. Fences shall be 6-foot chain link or equivalent as approved by consulting arborist. Fencing shall be placed at the dripline. Fences are to remain until all grading and construction is completed.

Measures for Tree Protection During Construction

No grading, parking, construction, demolition or other work shall occur within the Tree Protection Zone. Any modifications must be approved and monitored by the consulting arborist.

Tree health and structural condition shall be monitored throughout the construction period. Any needed treatments shall be applied. These treatments may include, but are not limited to, irrigation, pest control,

weed control, and mulch treatment.

Any root pruning required for construction purposes shall receive the prior approval of, and be supervised by, the consulting arborist.

If injury should occur to any tree during construction, the consulting arborist shall evaluate it as soon as possible so that appropriate treatments can be applied.

Irrigation systems shall be as specified by the consulting arborist.

No soil, chemicals, debris, equipment or other materials shall be dumped or stored within the Tree Protection Zone.

Impacts to Trees to be Transplanted

The following measures shall be implemented by the project to ensure vigor and survival of trees selected for relocation:

A qualified arborist shall be retained to plan and manage the tree-transplanting program.

The arborist's plan for transplanting trees shall be submitted to the City prior to the issuance of a Building Permit, and the arborist shall implement the plan as approved by the Director of Planning

The arborist shall ensure that transplanted trees are properly handled and cared for during excavation, moving, storage, maintenance, replanting, and establishment. The project arborist shall provide appropriate recommendations to ensure vigor and survival of the trees throughout the transplantation and establishment process.

In the event that any of the transplanted trees fail within the first 12 months of relocation they shall be replaced by the project developer in accordance with the tree replacement requirements approved with this Planned Development Rezoning.

48. **Air Quality.** The following dust control measures shall be implemented by the project developer during demolition of existing structures:
- a. Watering to control dust generation during demolition of structures and break-up of pavement.
 - b. Cover all trucks hauling demolition debris from the site.
 - c. Use dust-proof chutes to load debris into trucks whenever feasible.
 - d. The existing buildings include hazardous materials such as asbestos-containing building materials and lead-based paint. These hazardous materials will be removed and disposed of prior to general demolition, in compliance with all applicable Federal, State and local regulatory requirements. These regulatory requirements include measures for avoiding release of these substances into the atmosphere during removal.
49. **Materials Crushing and Recycling.** All crushing or screening equipment used on site for the recycling of

materials will be permitted by the Bay Area Air Quality Management District or the state's portable equipment statewide registration program, and utilize Best Available Control Technology for that type of equipment (typically consisting of regular watering of debris piles and use of continuous water sprays on crushing equipment). Prior to issuance of a Planned Development Permit, the applicant shall submit a program and site plan for on-site recycling of construction debris.

50. **Grading and Construction.** The BAAQMD has prepared the following list of feasible dust control measures that, when implemented, are considered to reduce construction impacts to less-than-significant levels. The following dust control measures shall be implemented by construction contractors during all phases of grading and construction:
- a. Water all active construction areas at least twice daily.
 - b. Water or cover stockpiles of debris, soil, sand or other materials that can be blown by the wind.
 - c. Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least two feet of freeboard.
 - d. Pave, apply water three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas and staging areas at construction sites.
 - e. Sweep daily (preferably with water sweepers) all paved access roads, parking areas and staging areas at construction sites.
 - f. Sweep streets daily (preferably with water sweepers) if visible soil material is carried onto adjacent public streets.
 - g. Hydroseed or apply non-toxic soil stabilizers to inactive construction areas.
 - h. Enclose, cover, water twice daily or apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc.).
 - i. Limit traffic speeds on unpaved roads to 15 mph.
 - j. Install sandbags or other erosion control measures to prevent silt runoff to public roadways.
 - k. Replant vegetation in disturbed areas as quickly as possible.
51. **Regional Emissions.** Prior to issuance of a Planned Development Permit, the project developer shall submit to the satisfaction of the Director of Planning, a program for implementing the following mitigation measures for reduction of regional air quality:
- a. Provide preferential parking for employee carpools, electric and low-emission vehicles.
 - b. Institute the Commute Check program for employees.
 - c. Provide motorcycle parking, secured bicycle parking and shower facilities for employees in conformance

with the requirements of Title 20 of the San José Municipal Code.

Cc: Jennifer E. Renk, Attorney at Law, Steefel Levitt and Weiss, One Embarcadero, 30th Floor, San Francisco, CA 94111
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Craig Nemson, IBM, Manager, Space Planning and Engineering, 5600 Cottle Road, DNP/010 Rm. 456, San José, Ca. 95193
Mark Stoner, Lowe's Home Improvement Warehouse, Senior Real Estate Manager, 1530 Faraday Avenue, #140, Carlsbad, CA 92008
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